

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ERICK LEE,)	
)	
Plaintiff,)	Civil Action No. 21-709
)	
v.)	Judge Cathy Bissoon
)	Magistrate Judge Maureen P. Kelly
CO1 RIETSENA, <i>et al.</i> ,)	
)	
Defendants.)	

MEMORANDUM ORDER

This case has been referred to United States Magistrate Maureen P. Kelly for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. §§ 636(b)(1)(A) and (B), and Local Rule of Civil Procedure 72.

On October 29, 2021, the Magistrate Judge issued a Report (Doc. 5) recommending that this case be dismissed pursuant to Poulis v. State Farm Fire & Cas. Co., 747 F.2d 863 (3d Cir. 1984). Service of the Report and Recommendation (“R&R”) was made on Plaintiff, and no objections have been filed.¹

After a review of the pleadings and documents in the case, together with the R&R, it hereby is **ORDERED** that this case is **DISMISSED WITH PREJUDICE** and the Magistrate Judge’s R&R is adopted as the Opinion of the District Court.²

¹ The R&R was mailed to Plaintiff’s address-of-record, as well as the address indicated at the Pennsylvania Department of Corrections’ inmate locator webpage. R&R at 1 n.1. The copy of the R&R sent to Plaintiff’s address-of-record was returned to the Court undeliverable. It is the litigants’ responsibility to keep current their address-of-record, and any failure to do so will be to their detriment. *See generally Peterson v. Glunt*, 2011 WL 6955812, *2 (W.D. Pa. Dec. 8, 2011) (collecting cases).

² The Court disagrees with the Magistrate Judge to the extent she recommends that the dismissal should be without prejudice to refile. *See Adkins v. Reynolds*, 788 F. App’x 824, 828 (3d Cir. 2019) (emphasizing that “Rule 41(b) dismissals ought to be viewed as a last resort, as opposed to a necessary weapon in the trial court’s arsenal.”); Hildebrand v. Allegheny County, 923 F.3d 128, 136 (3d Cir. 2019) (noting that the fifth Poulis factor—i.e., the

IT IS SO ORDERED.

December 30, 2021

s/Cathy Bissoon
Cathy Bissoon
United States District Judge

cc (via First-Class U.S. Mail):

ERICK LEE
LS4856
SCI PINE GROVE
191 FYOCK ROAD
INDIANA, PA 15701

ERICK LEE
LS4856
SCI-Frackville
1111 Altamont Blvd
Frackville, PA 1793

effectiveness of sanctions other than dismissal—requires district courts to thoroughly consider “alternative sanctions before dismissing a case with prejudice.”); Briscoe v. Klaus, 538 F.3d 252, 262–63 (3d Cir. 2008) (recognizing that lesser sanctions may not be an effective alternative in cases involving pro se in forma pauperis litigants who do not comply with court orders.)